

LEGAL UPDATE

Revised Surprise Billing Model Notice Now Available

On Aug. 19, 2022, the Departments of Labor (DOL), Health and Human Services (HHS) and the Treasury (Departments) jointly released [FAQs](#) implementing provisions of the No Surprises Act (NSA), including the requirement that plans and issuers disclose certain balance billing protections to participants. Previously, the Departments released a model notice that could be used to satisfy these disclosure requirements (“Version 1”). **Based on public comments, the Departments revised this model notice (“Version 2”) and included it in the [appendix](#) of the latest FAQs.**

Disclosure Requirements

For plan years beginning on or after Jan. 1, 2022, the NSA requires group health plans and issuers to make publicly available, post on a public website and include on each applicable explanation of benefits information on the restrictions against balance billing, including any applicable state law protections, and information on contacting appropriate state and federal agencies. The revised notice includes more specific federal agency contact information, along with other minor clarifications.

Employer Compliance Steps

Plans and issuers may, but aren’t required to, use the model notice to meet their disclosure obligations. Most employers will rely on their issuers, TPAs or other service providers to fulfill these disclosure requirements. Employers should confirm that their service providers that use the model notice will use Version 2 for plan years beginning on or after Jan. 1, 2023.

In addition, the Departments’ [FAQs](#) confirm that a health plan that does not have its own website can satisfy the requirement to post the notice by entering into a written agreement where its issuer or TPA agrees to post the notice on a public website where information is normally made available to plan participants on the plan’s behalf.

Provided to you by **ABM Insurance & Benefit Services**

Important Dates

Jan. 1, 2022, to Jan. 1, 2023

The Departments will consider the use of either Version 1 or Version 2 of the model notice to be good faith compliance with respect to plan or policy years beginning on or after Jan. 1, 2022, and before Jan. 1, 2023.

Jan. 1, 2023, and Beyond

The Departments will consider the use of **only** Version 2 of the model notice to be good faith compliance with respect to plan or policy years beginning after Jan. 1, 2023.

The revised notice includes more specific federal agency contact information and can be used in 2022 and beyond.